



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: A.N. Schwartz et al.

Attorney Docket No: SWTZ110464

Serial No.: 08/794,154

Group Art Unit: 3408

Filed: February 3, 1997

Examiner: P. Nerbun

Title: GOGGLES WITH PLIABLE AND RESILIENT SEALING PAD

STATEMENT UNDER 37 C.F.R. § 1.97(e)

Seattle, Washington 98101

April 29, 1998

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GROUP 3200

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

1. I, the person signing below, state that:

- a. _____ each item of information contained in the accompanying information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the statement, or
- b. X no item of information contained in the accompanying information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application and, to my knowledge as the person signing this certification after making reasonable inquiry, no item of information contained in the accompanying information disclosure statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this statement.

2. I, the person signing below, am:

- a. X the inventor named in the application
- b. X the attorney or agent who prepared or prosecuted the application, signing on the basis of:
- i. X the information supplied by the inventor;
- ii. _____ the information supplied by another individual designated in 37 C.F.R. § 1.56(c); and/or

1 iii. _____ the information in my file.

2 Respectfully submitted,

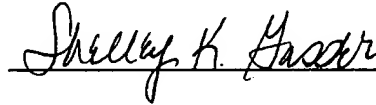
3 CHRISTENSEN O'CONNOR
4 JOHNSON & KINDNESS^{PLLC}

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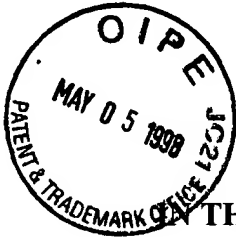
6 Thomas D. Theisen
7 Registration No. 35,713
8 Direct Dial (206) 224-0721

9 I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as
10 first class mail with postage thereon fully prepaid addressed to: Assistant Commissioner for Patents, Washington, D.C.
11 20231, on April 29, 1998.

12 Date: April 29, 1998

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THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: A.N. Schwartz et al. Attorney Docket No: SWTZ110464
Serial No.: 08/794,154 Group Art Unit: 3408
Filed: February 3, 1997 Examiner: P. Nerbun
Title: GOGGLES WITH PLIABLE AND RESILIENT SEALING PAD

INFORMATION DISCLOSURE STATEMENT

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Seattle, Washington 98101

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April 29, 1998

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Applicant is aware of the information listed in the attached form that may be material to the prosecution of the above-identified patent application.

Applicants have recently learned of the issuance of U.S. Patent No. 5,647,357 to Barnett et al. That patent application was filed on September 8, 1995 and issued on July 15, 1997. The Barnett et al. patent does not claim priority to any earlier application and thus has an effective filing date of September 8, 1995, more than seven months after the original application filed by Applicants

on January 23, 1995, Application Serial No. 08/337,257.

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The only relevance of the Barnett et al. patent, if any, is that it tends to confirm the patentability of the pending claims in the present application. In particular, Claim 1 of the Barnett et al. patent appears to claim the same seal described in Applicants' application, but for use with a respiratory mask. Applicants respectfully submit that the failure of the Barnett et al. Examiner to cite Chen or the "medical and sport health care" language of Chen is further evidence that the use of

Chen's gelatinous elastomer as a seal for either goggles or a mask is neither taught nor suggested by Chen.

1. X Copies of the listed patents, publications, and other information are enclosed for the Examiner's use.
2. _____ Copies of the listed patents, publications, and other information were previously cited by or submitted to the Patent and Trademark Office in prior application Serial No. _____, filed _____, and relied upon for an earlier filing date under 35 U.S.C. § 120.
3. _____ A concise explanation of the relevance of document I.D. No. _____ (which is not in the English language), as presently understood by the individual designated under 37 C.F.R. § 1.56(c) most knowledgeable about its content, is provided _____.
4. _____ Pursuant to 37 C.F.R. § 1.97(b), this information disclosure statement is being filed within three months of the filing date of the national application, within three months of the date of entry of the national stage as set forth in 37 C.F.R. § 1.491 in an international application, or before the mailing date of a first Office Action on the merits.
5. _____ Pursuant to 37 C.F.R. § 1.97(c), this information disclosure statement is being filed after the period set forth in 37 C.F.R. § 1.97(b) but before the mailing date of either a final action under 37 C.F.R. § 1.113, or a notice of allowance under 37 C.F.R. § 1.311, and is accompanied by:

 - a. _____ a certification as specified in 37 C.F.R. § 1.97(e); or
 - b. _____ the fee set forth in 37 C.F.R. § 1.17(p). Check No. _____ in the amount of \$240.00 is enclosed.
6. a. X Pursuant to 37 C.F.R. § 1.97(d) this information disclosure statement is being filed after the mailing date of either a final action under 37 C.F.R. § 1.113, or a notice of allowance under 37 C.F.R. § 1.311, whichever occurs first, but before or simultaneous with payment of the issue fee. The statement is accompanied by a certification as specified in 37 C.F.R. § 1.97(e), a petition requesting consideration of the information disclosure statement is set forth below, and the petition fee set forth in 37 C.F.R. § 1.17(i)(1). Check No. 95420 in the amount of \$130.00 is enclosed.

7. X The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16, 1.17 and 1.18 which may be required during the entire pendency of the application, or credit any overpayment, to Deposit Account No. 03-1740. This authorization also hereby includes a request for any extensions of time of the appropriate length required upon the filing of any reply during the entire prosecution of this application. A copy of this sheet is enclosed.

CHRISTENSEN O'CONNOR
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Thomas D. Theisen
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Date: April 29, 1998

Shelley K. Hesser

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